IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 1748 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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USHABEN JAYESHBHAI PATEL - Applicant(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR JAYPRAKASH UMOT for Applicant(s) : 1,
MR M.R. MENGDEY ADDL.PUBLIC PROSECUTOR for Respondents

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 21/09/2007

ORAL JUDGMENT

1. By this petition under Article 226 read with sec.482 of the Code of Criminal Procedure, the petitioner – original complainant has made a grievance against the inaction

on the part of the investigating officer in completing the investigation with respect to the offence registered with the DCB Police Station, Surat vide M.Case No.1 of 2006.

2. Mr.SV Raju, learned counsel for the petitioner has submitted that though the complaint is filed on 18/2/2006 and the Chief Judicial Magistrate, Surat, I/C. 6th Additional Senior Judge, Surat, by order dtd.18/2/2006 has directed the Police Sub-Inspector, DCB Police Station, Surat to make investigation under sec.156(3) of the Code of Criminal Procedure and submit the report within a period of 15 days, the investigation is not completed and and there is no progress in the investigation. It is also fuhrer submitted that even no extension is sought from the trial court for submitting the report. Relying upon the decision of the Hon'ble Supreme Court reported in 1992 SCC (Crime) 192, more particularly paragraph Nos.44 and 46, Mr.Raju submitted that in appropriate case where after registering the crime, if no expeditious investigation is made, the Magistrate or High Court, on satisfying the grounds, may direct completion of investigation within reasonable time. Submitting accordingly, it is requested by the learned counsel for the petitioner to pass

appropriate order directing the concerned investigating officer to complete the investigation as early as possible and submit the report before the learned Chief Judicial Magistrate, Surat.

3. Mr.M.R. Mengdey, learned Addl.Public Prosecutor, under the instructions from the concerned investigating officer has submitted that looking to the investigation papers, it cannot be said that there is no progress in the investigation at all. He has submitted that the documents which are collected during the course of the investigation, are sent to the FSL on 28/6/2007 and even reminder was sent on 21/7/2007 and the opinion of the FSL is awaited. However, he has fairly conceded that due to inadvertent mistake, extension for submitting the report has not been sought from the learned Chief Judicial Magistrate, Surat.
4. Heard the learned counsel for the respective parties.
5. It is to be noted that the complaint has been filed on 18/2/2006 and the learned Chief Judicial Magistrate vide order dtd.18/2/2006 ordered for investigation under sec.156(3) and directed the concerned PSI of DCB Police Station, Surat to submit the report within 15 days. Still, however, neither the report is submitted nor any

extension is sought for from the Chief Judicial Magistrate for submitting the report. When an order is passed by the learned trial court to submit the report after investigation under sec.156(3) or under sec.202 of the Cr.P.C. within stipulated time, the concerned investigating officer is bound to submit the report and if for any reason, the investigation is not completed and the report is not submitted, then the investigating officer is required to make an application for extension of time to submit the report, but he himself cannot grant extension which is prerogative and jurisdiction of the trial court. In the present case, the investigating officer has neither submitted the report nor sought any extension from the trial court to submit the report.

6. Considering the facts and circumstances of the case, more particularly considering the fact that though the complaint is filed on 18/2/2006 and inspite of specific directions of the trial court to submit the report within a period of 15 days, neither investigation is completed nor any report is submitted for extension of time. Considering the aforesaid decision of the Supreme Court, Police Sub-Inspector of DCB Police Station, Surat, who is investigating the offence, is hereby directed to

complete the investigation and submit the report before the learned Chief Judicial Magistrate within a period of four weeks from today. Non-compliance of this order will be viewed seriously and the same would amount to deliberate disobedience of the order passed by this Court, for which appropriate actions can be taken against him.

7. In view of the aforesaid observations and directions, the petition is allowed. Rule is made absolute. Direct service is permitted.

(M.R. SHAH, J.)

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